

**DURHAM, NORTH CAROLINA
MONDAY, DECEMBER 1, 2003
7:00 P.M.**

The Durham City Council met in regular session on the above date and time in the Council Chambers at City Hall with the following members present: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Absent: None.

Also present: City Manager Marcia L. Conner, City Attorney Henry Blinder, City Clerk D. Ann Gray and Deputy City Clerk Linda Bratcher.

Mayor Bell called the meeting to order with the Pledge of Allegiance and a moment of silent meditation.

**CITY COUNCIL ORGANIZATIONAL MEETING
MONDAY, DECEMBER 1, 2003
7:00 P.M.**

A. DURHAM COUNTY BOARD OF ELECTIONS MATTERS BY MICHAEL H. ASHE, DIRECTOR OF ELECTIONS

1. Certification of November 4, 2003 Municipal Election

To receive the abstract of the original returns of the 2003 City of Durham Municipal Election.

Michael Ashe, Director of Elections, presented a certified copy of the abstract of votes for the Municipal Election to City Clerk D. Ann Gray.

[Abstract of votes cast in the Municipal Election for Mayor and At-Large Seats on Tuesday, November 4, 2003 in the City of Durham, County of Durham, State of North Carolina]

For Mayor	William V. "Bill" Bell	22,354
At-Large	Eugene A. Brown	13,933
	Diane N. Catotti	15,584
	Thomas A. Stith, III	13,540

2. Presentation of Election Certificates

Michael Ashe presented election certificates to the following individuals: William V. "Bill" Bell, Thomas A. Stith, III, Eugene A. Brown and Diane N. Catotti.

Council Member Stith thanked Mr. Ashe and his staff for their professionalism and efficiency throughout this campaign.

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Mayor Pro Tempore Cheek and Council Member Edwards made statements thanking everyone for their support.

B. Presentation of Service Plaques by Mayor William V. “Bill” Bell

Service plaques were presented by Mayor William V. “Bill” Bell to Mayor Pro Tempore Lewis A. Cheek and Council Member Tamra M. Edwards.

C. Swearing In and Qualifying of Mayor by Senior Resident Superior Court Judge Orlando F. Hudson, Jr.

Judge Orlando F. Hudson, Jr. administered the oath of office to William V. “Bill” Bell as Mayor of the City of Durham.

D. Swearing In and Qualifying of City Council Members by Senior Resident Superior Court Judge Orlando F. Hudson, Jr.

Judge Orlando F. Hudson, Jr. administered the oath of office to the following individuals as City Council Members: Eugene A. Brown, Diane N. Catotti and Thomas A. Stith, III.

E. Statements by New Council Members

At this time, Council Members Catotti, Brown and Stith along with Mayor Bell recognized their voters, families and friends thanking them for their support.

F. Council Members Take Their Seats

After the swearing in of the Mayor and Council Members, the following members were present at the meeting: Mayor Bell and Council Members Best, Brown, Catotti, Cole-McFadden, Clement and Stith.

G. Designation of Mayor Pro Tempore by Council Members

A motion was made by Council Member Catotti seconded by Council Member Brown to designate Council Member Cole-McFadden as Mayor Pro Tempore.

A substitute motion was made by Council Member Clement to designate Council Member Stith as Mayor Pro Tempore. Motion dies for a lack of a second.

MOTION by Council Member Catotti seconded by Council Member Brown to designate Council Member Cole-McFadden as Mayor Pro Tempore was approved at 7:53 p.m. by the following vote: Ayes: Mayor Bell and Council Members Best, Brown, Catotti, Cole-McFadden and Stith. Noes: Council Member Clement. Absent: None.

[The Council recessed until 8:00 p.m.]

Mayor Bell called the December 1, 2003 City Council Meeting to order and at that time, he recognized Boy Scout Troop 405.

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The Mayor asked for priority items from the City Manager, City Attorney and City Clerk. City Manager Conner requested that the following items be added to the agenda: Municipal Agreement with NCDOT for NC 147 Bicycle Pedestrian Bridge and 2003 Crime Report – Third Quarter. Also, she provided a handout with revised motions for GBA #33 [Ruth Shepard Poole – Drainage Contract Amendments]. Finally, she introduced the new Parks & Recreation Director Darrell Crittendon. [There were no items from the City Attorney or City Clerk.]

Mayor Pro Tempore Cole-McFadden asked the administration to place an item on the December 4, 2003 Work Session agenda concerning funding for the Carolina Theatre.

Council Member Clement honored Mr. Calvin Carter for recently receiving the 2003 National Medal of Technology from President Bush. Also, he congratulated Danny Thomas from the Inspections Department for being named the North Carolina Electrical Inspector of the Year.

Mayor Bell informed Council that he gave the welcome address at the conference where Mr. Danny Thomas was recognized.

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Catotti to add the City Manager's priority items to the agenda was approved at 8:08 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

[ITEM ADDED TO AGENDA]

SUBJECT: 2003 CRIME REPORT – THIRD QUARTER

To receive a report from the Police Department on crime for the third quarter of 2003.

Police Chief Steve Chalmers gave a power point presentation on the 2003 Third Quarter Crime Statistics for September and October 2003 [handout provided]. He noted he asked the City Manager if she could find additional support for overtime for officers to address the perception within public housing. Also, he noted two officers will be redeployed to public housing to provide oversight in the community.

Discussion was held by Council on the mobile substation, clearance rate, and support for redeployment of officers at public housing.

Several members of Council spoke in support of this item being referred to the December 4, 2003 Work Session.

Marie Faison, a resident of McDougald Terrace, expressed a concern that the report doesn't identify areas where the most crimes are committed and spoke in opposition to police officers being removed from McDougald Terrace.

Barbara Lyons, a resident of McDougald Terrace, made comments on the recent shooting that took place in the community and submitted a petition against the removal of substation officers in public housing.

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Victoria Peterson made comments on the crime report and urged Council to support 12 new officers in District 4.

Steve Hopkins, of 920-B Wadesboro Street, noted that the protection of the public housing residents is the responsibility of the Housing Authority just as much as the City and something should be done as a community to protect public housing.

Note: This item will be discussed at the December 4, 2003 City Council Work Session.

Mayor Bell asked if any citizen(s) or council member(s) wanted to pull any items from the Consent Agenda. Consent Agenda Items 18 [Sub-recipient Contract With DHA]; 22 [Durham Police Department Promotional Assessment Process]; 30 [Steve Hopkins]; and 32 [Community Learning Center] were pulled.

MOTION by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to approve the Consent Agenda as amended was approved at 9:13 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

[CONSENT AGENDA]

SUBJECT: APPROVAL OF CITY COUNCIL MINUTES

MOTION by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to approve City Council Minutes for November 3, 2003 Regular City Council Meeting; and

To approve City Council action taken at the October 23 and November 6, 2003 City Council Work Sessions was approved at 9:13 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: SETTING THE DATE FOR THE PUBLIC HEARING ON THE PROPOSED AMENDMENTS TO THE 2000-2005 DURHAM CONSOLIDATED PLAN AND THE FY 2001-2002, 2002-2003 AND 2003-2004 CONSOLIDATED ACTION PLANS

MOTION by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to set the date for the public hearing on the proposed Amendments to the 2000-2005 Durham Consolidated Plan and the FY 2001-2002, 2002-2003 and 2003-2004 Consolidated Action Plans to be held on December 15, 2003 was approved at 9:13 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: CONTRACTS

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MOTION by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to authorize the City Manager to execute contracts as listed; and

To authorize the City Manager to make changes to contracts as listed before execution as long as the changes do not increase the dollar amount and remain consistent with the general intent of the contracts was approved at 9:13 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

Contractor	Contract Description	Dept	CT Amt
William Britt	Official	P&R	\$ 2,000.00
Marti Smith	Official	P&R	\$ 2,000.00
Antwoine Overby	Official	P&R	\$ 2,000.00
Mitchell Whitfield	Official	P&R	\$ 1,000.00
Seisint Inc	Skip Tracing Service	Finance	\$ 2,000.00
Durham Catering Co	Senior Holiday Party	OEED	\$ 6,230.08
TROSA	Senior Holiday Party-- Waiters	P&R	\$ 1,250.00

SUBJECT: PIGGY-BACK PURCHASE – LOW-ENTRY REAR LOADING REFUSE COLLECTION VEHICLES - CAROLINA ENVIRONMENTAL SYSTEMS, INC.

MOTION by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to authorize the City Manager to enter into a contract with Carolina Environmental Systems, Inc., in the amount of \$260,288 for providing the City with two Low-Entry Rear Loading Refuse Collection Vehicles; and

To authorize the City Manager to modify the agreement before execution provided that modifications do not increase the dollar amount of the agreement and the modifications are consistent with the general intent of the existing version of the agreement was approved at 9:13 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: CONTRACT EXTENSION – RENTAL UNIFORM SERVICE CONTRACT - G & K SERVICES

MOTION by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to authorize the City Manager to extend the existing contract with G & K Services, in the estimated amount of \$72,581 for providing the City with Rental Uniform Service; and

To authorize the City Manager to modify the agreement before execution provided that modifications do not increase the dollar amount of the agreement and the modifications are consistent with the general intent of the existing version of the agreement was approved at 9:13 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore

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Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: BIDS-ESTIMATED TWO YEARS REQUIREMENT FOR METER COUPLING AND SETTING PARTS - MILLER SUPPLY COMPANY

MOTION by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to accept the bid from Miller Supply Company in the amount of \$163,557 for furnishing the City with its Estimated Two Years Requirement for Meter Coupling and Setting Parts; and

To authorize the City Manager to enter into a contract with Miller Supply Company in the amount of \$163,557 for furnishing the City with its Estimated Two Years Requirement for Meter Coupling and Setting Parts; and

To authorize the City Manager to modify the agreement before execution provided that modifications do not increase the dollar amount of the agreement and the modifications are consistent with the general intent of the existing version of the agreement was approved at 9:13 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: BIDS-JANITORIAL SERVICES FOR THE DATA DOWNTOWN TRANSFER TERMINAL BATHROOM - L & D JANITORIAL

MOTION by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to accept the bid from L & D Janitorial in the amount of \$23,280 to perform janitorial services at the DATA Downtown Transfer Terminal Bathroom; and

To authorize the City Manager to enter into a contract with L & D Janitorial in the amount of \$23,280 to perform janitorial services at the DATA Downtown Transfer Terminal Bathroom; and

To authorize the City Manager to modify the agreement before execution provided that modifications do not increase the dollar amount of the agreement and the modifications are consistent with the general intent of the existing version of the agreement was approved at 9:13 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: BIDS-JANITORIAL SERVICES FOR THE DURHAM ARMORY - SUPERCLEAN PROFESSIONAL JANITORIAL SERVICES

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MOTION by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to accept the bid from Superclean Professional Janitorial Services in the amount of \$17,500 to perform janitorial services at the Durham Armory;

To authorize the City Manager to enter into a contract with Superclean Professional Janitorial Services in the amount of \$17,500 to perform janitorial services at the Durham Armory; and

To authorize the City Manager to modify the agreement before execution provided that modifications do not increase the dollar amount of the agreement and the modifications are consistent with the general intent of the existing version of the agreement was approved at 9:13 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: BID REPORT – OCTOBER 2003

MOTION by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to receive a report and to record into the minutes bids which were acted upon by the City Manager during the month of October 2003 was approved at 9:13 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

CITY OF DURHAM NORTH CAROLINA

November 5, 2003

MEMO TO: Marcia L. Conner, City Manager

THROUGH: Kenneth C. Pennoyer, Finance Director

FROM: Joseph W. Clark, Purchasing Manager

SUBJECT: Bid Report

To receive a report and to record into the minutes bids which were acted upon by the City Manager during the month of **October 2003**.

Apparatus, Supplies, Materials, Equipment, Construction and Repairwork:

1. Bid: Police Department Uniforms

Purpose of Bid: To purchase additional uniforms for the police department

Comments: These uniforms are to match the previous uniforms that were purchased in January. Showfety's has agreed to allow the additional uniforms to be purchased at the bid price with no price increase.

Opened: December 20, 2002

December 1, 2003

Bidders: Showfety's Inc. *\$21,132.00
Greensboro, NC

*Awarded based on: _____ Low Bid ☒ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	6		# Black Males	0	0%
Total # Females	3	50%	# White Males	3	50%
Total # Males	3	50%	# Other Males	0	0%
			# Black Females	1	16.67%
			# White Females	1	16.67%
			# Other Females	1	16.67%

Performance Bond: _____ Waived _____ Not Waived ☒ Not Required

The SDBE Data Base was used in the solicitation of bids for this item.

2. Bid: 3M Brand Detector Loop Sealant and Accessories

Purpose of Bid: To provide Transportation/Traffic Signal Division with 3M brand Detector Loop Sealant.

Comments: Temple, Inc. is the sole regional source for 3M brand Detector Loop Sealant.

Opened: September 10, 2003

Bidders: Temple, Inc. * \$11,006.12
Cornelius, NC

*Awarded based on: _____ Low Bid ☒ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	52		# Black Males	5	10%
Total # Females	17	33%	# White Males	29	56%
Total # Males	35	67%	# Other Males	1	1%
			# Black Females	1	1%
			# White Females	13	31%
			# Other Females	3	3%

Performance Bond: _____ Waived _____ Not Waived ☒ Not Required

The SDBE Data Base was used in the solicitation of bids for this item.

3. Bid: Estimated Annual Requirements for Transit Bus Tires

Purpose of Bid: To establish a fixed price, term contract for Transit Bus Tires

Comments:

December 1, 2003

Opened: September 17, 2003

Bidders:	Bridgestone/Firestone North American Tire	* \$97,950.00
	Akron, OH	
	TCI Tire Centers	\$99,954.00
	Raleigh, NC	

*Awarded based on: ☒ Low Bid ☐ Other (See Comments)

The Equal Opportunity/Equity Assurance Department reviewed the bid submitted by Bridgestone/Firestone North American Tire of Akron, Ohio and have determined that they are in compliance with the Ordinance to Promote Equal Opportunities in City Contracting.

The workforce statistics are as follows:

Total Workforce	112	
Total # of Females	14	13%
Total # of Males	98	87%
Total # of Black Males	12	11%
Total # of White Males	59	53%
Total # of Other Males	27	24%
Total # of Black Females	3	3%
Total # of White Females	11	9%
Total # of Other Females	0	0%

Performance Bond: ☐ Waived ☐ Not Waived ☒ Not Required

4. Bid: Mobile Tracking Software and Service

Purpose of Bid: To provide DATA with mobile tracking units and service for their new fleet of 20 buses.

Comments:

Opened: September 22, 2003

Bidders:	Preferred Communications, Inc.	*\$52,382.00
	Creedmoor, NC	
	Insight USA, Inc.	\$61,995.00
	California, MD	

*Awarded based on: ☒ Low Bid ☐ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	5		# Black Males	0	0%
Total # Females	2	40%	# White Males	3	60%
Total # Males	3	60%	# Other Males	0	0%
			# Black Females	0	0%
			# White Females	2	40%
			# Other Females	0	0%

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Performance Bond: ☐ Waived ☐ Not Waived ☒ Not Required

The SDBE Data Base was used in the solicitation of bids for this item.

5. Bid: Replace Roof Top Gas Packs at Fire Station No. 1

Purpose of Bid:

Comments: This is an emergency.

Opened: October 8, 2003

Bidders:	Carolina Air Conditioning	* \$25,380.00
	Durham, NC	
	Comfort Engineers	\$26,370.00
	Durham, NC	
	Mendenhall Mechanical Services	\$32,388.18
	Durham, NC	

*Awarded based on: ☒ Low Bid ☐ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	20		# Black Males	2	10%
Total # Females	2	10%	# White Males	14	70%
Total # Males	18	90%	# Other Males	2	10%
			# Black Females	0	0%
			# White Females	2	10%
			# Other Females	0	0%

Performance Bond: ☐ Waived ☐ Not Waived ☒ Not Required

The SDBE Data Base was used in the solicitation of bids for this item.

6. Bid: Flowmeters at Lake Michie Dam

Purpose of Bid: To purchase four (4) propeller meters for the water flow at the Lake Michie Dam

Comments: This is a sole source for these water propeller meters

Opened: October 21, 2003

Bidders:	Sparling Instruments	*\$14,952.10
	El Monte, CA	

*Awarded based on: ☐ Low Bid ☒ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

December 1, 2003

Total Workforce	54		# Black Males	02	3.7%
Total # Females	12	22.2%	# White Males	19	35.2%
Total # Males	42	77.8%	# Other Males	21	38.9%
			# Black Females	00	00%
			# White Females	05	9.2%
			# Other Females	00	00%

Performance Bond: ☐ Waived ☐ Not Waived ☒ Not Required

7. Bid: Surveillance Equipment and Supplies

Purpose of Bid: To purchase surveillance equipment and supplies for the Police/Organized Crime Division

Comments: Grant money is being used to purchase this equipment and supplies. This is the only distributor in the state of North Carolina that can sell this equipment.

Opened: N/A

Bidders: Federal Equipment Distributors *\$15,064.00
Raleigh, NC

*Awarded based on: ☐ Low Bid ☒ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	20		# Black Males	2	10%
Total # Females	9	45%	# White Males	7	35%
Total # Males	11	55%	# Other Males	2	10%
			# Black Females	2	10%
			# White Females	6	30%
			# Other Females	1	05%

LOCATION OF PERFORMING CONTRACT
Raleigh, NC

Total Workforce	1		# Black Males	0	0%
Total # Females	0	0%	# White Males	1	100%
Total # Males	1	100%	# Other Males	0	0%
			# Black Females	0	0%
			# White Females	0	0%
			# Other Females	0	0%

Performance Bond: ☐ Waived ☐ Not Waived ☒ Not Required

Sufficient funds were available at the time of the award. The Administration recommends acceptance of the above bids denoted by an asterisk (*).

JWC:lm

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SUBJECT: MAJOR SITE PLAN – BANK OF AMERICA (D03-358)

MOTION by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to approve a major site plan, submitted by the URS Corporation, on behalf of the Trammel Crow Company, for the construction of a 4,700 square foot bank on a 1.83 acre outparcel of 'The Shoppes at Hope Valley', site located on the eastern corner of Martin Luther King, Jr. Parkway and S. Roxboro Street, zoned SC (Parcel ID 145814) (PIN 0729-01-29-7980) was approved at 9:13 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: SETTING A PUBLIC HEARING TO CONSIDER ORDERING PETITIONED IMPROVEMENT - SEWER MAIN AND SEWER OUTFALL ON ANGIER AVENUE

MOTION by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to accept a Certificate of Sufficiency from the Manager of Engineering for the following petition; and

To adopt a resolution setting a public hearing for December 15, 2003 to consider ordering the following improvement was approved at 9:13 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

Sewer Main and Sewer Outfall on Angier Avenue - from North Property Line of Tax Map 591-1-41 to Cortez Drive and Cortez Drive - from Angier Avenue to North Property Line of Tax Map 591-1-48

SUBJECT: SEWER EXTENSION AGREEMENT WITH BEN L. CRABTREE, JR. AND MONDA B. CRABTREE - RED MILL QUICK STOP

MOTION by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to authorize the City Manager to enter into a sewer extension agreement with Ben L. Crabtree, Jr. and Mona B. Crabtree to serve Red Mill Quick Stop was approved at 9:13 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: WATER AND SEWER EXTENSION AGREEMENT WITH BRYANT B. ROBERTS, INDIVIDUAL - GROVE POINTE SUBDIVISION

MOTION by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to authorize the City Manager to enter into a water and sewer extension agreement with Bryant B. Roberts, Individual, to serve Grove Pointe Subdivision was approved at 9:13 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore

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Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT: WATER AND SEWER EXTENSION AGREEMENT WITH
DURHAM COUNTY HABITAT FOR HUMANITY
CORPORATION - ELLERBEE II**

MOTION by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to authorize the City Manager to enter into a Water and Sewer Extension Agreement with Durham County Habitat for Humanity Corporation to serve Ellerbee II was approved at 9:13 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: HOUSING AUTHORITY APPOINTMENTS

MOTION by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to discuss Housing Authority Appointments in other cities of North Carolina was approved at 9:13 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT: DOWNTOWN PARTICIPATION LOAN POOL PROJECT LOAN
(303-305 CHAPEL HILL STREET CORPORATION (DANIEL M.
ELLISON)**

MOTION by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to approve the proposed extension of the existing loan terms for the City's portion of the 303-305 Chapel Hill Street Corporation commercial loan funded under the Downtown Participation Loan Pool Program was approved at 9:13 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT: LOAN ORIGATION AND SERVICING CONTRACT
EXTENSIONS - CENTRAL CAROLINA BANK (CCB)**

MOTION by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to authorize the City Manager to execute the loan origination and servicing contracts with Central Carolina Bank (CCB) from December 31, 2003 to March 31, 2004 was approved at 9:13 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

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**SUBJECT: AMENDMENTS TO THE PASSENGER VEHICLE FOR HIRE
ORDINANCE**

MOTION by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to approve an ordinance amending Section 22-95 portions of Article I-III, Chapter 22 of the Durham City Code pertaining to Passenger Vehicles for Hire was approved at 9:13 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

Ordinance #12891

**SUBJECT: LICENSE AGREEMENT WITH NORFOLK SOUTHERN
RAILWAY COMPANY - BORDEN INDUSTRIAL PARK**

MOTION by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to authorize the City Manager to execute a standard license agreement between Norfolk Southern Railway Company and the City of Durham concerning a 12-inch waterline, located at Milepost D-85.10 to serve Borden Industrial Park was approved at 9:13 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: 2004 CITY COUNCIL MEETING SCHEDULE

MOTION by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to adopt the 2004 City Council Meeting Schedule was approved at 9:13 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: PARRISH STREET HERITAGE PLANNING

MOTION by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to receive a preliminary report of Heritage Planning progress on Parrish Street was approved at 9:13 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: JACQUELINE BENNETT

To receive comments from Jacqueline Bennett on Council Members' professionalism.

Note: This citizen did not appear at the 11/20/03 Work Session.

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SUBJECT: AUDREY MITCHELL

MOTION by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to receive a report from the Administration on concerns in the Walltown Neighborhood was approved at 9:13 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: CACH-COLLIER, ALSTON AVENUE AND CHENAULT & HOMEWOOD

MOTION by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to receive a report from the Administration on a construction project in the Collier Estate community was approved at 9:13 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

[ITEMS PULLED FROM CONSENT AGENDA]

SUBJECT SUB-RECIPIENT CONTRACT WITH HOUSING AUTHORITY OF CITY OF DURHAM NORTH CAROLINA

Steve Hopkins, of 920-B Wadesboro Street, noted he would like to see progress reports for the weed and seed program and another representative to be appointed to the Weed and Seed Steering Committee that is not a paid employee by the DHA.

Council Member Clement expressed a concern about the Weed & Seed program.

Katherine Simmons, of the Housing Department, noted the Weed & Seed Coordinator has been hired and will start December 15.

MOTION by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to authorize the City Manager to execute the contract with Housing Authority of City of Durham North Carolina to receive weed and seed program funds: and

To authorize the City Manager to modify the agreement before execution provided that modifications do not increase the dollar amount of the agreement and the modifications are consistent with the general intent of the existing version of the agreement was approved at 9:16 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: DURHAM POLICE DEPARTMENT PROMOTIONAL ASSESSMENT PROCESS –NORTH CAROLINA CENTRAL UNIVERSITY

December 1, 2003

To authorize the City Manager to execute a contract with North Carolina Central University for the Durham Police Department Promotional Assessment Process in an amount not to exceed \$119,150; and

To authorize the City Manager to modify the agreement before execution provided that modifications do not increase the dollar amount of the agreement and the modifications are consistent with the general intent of the existing version of the agreement.

Council Member Best asked questions that were answered by staff relative to the written test and last process. He expressed a concern relative to the cost of assessment suggesting that the administration bring in outside officials from other jurisdictions to help with the promotional process.

Council Member Brown asked questions that were answered by staff concerning the cost of the assessment. He discussed what Raleigh and Charlotte are doing for lesser money and requested that this item be referred to the December 4, 2003 City Council Work Session.

MOTION by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to refer this item to the December 4, 2003 City Council Work Session was approved at 9:26 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: STEPHEN HOPKINS

To receive comments from Stephen Hopkins on City Council Members acting unprofessionally and Code of Ethics Violation by Council Members.

Steve Hopkins read an editorial in the Triangle Tribune entitled "Assessing Conner's Performance". Also, he spoke in support of City Manager Conner.

Note: No action was taken by the City Council on this item.

SUBJECT: COMMUNITY LEARNING CENTER – DURHAM COUNTY

To authorize the funding for the Community Learning Center in an amount not to exceed \$27,960 from the Council's Contingency Fund; and

To authorize the City Manager to negotiate and execute an inter-local agreement with Durham County for these services.

Adrienne Witherspoon, New Horizon Board Chair, requested Council to look at supporting New Horizon through the resources already endorsed by the school system. Also, she asked Council to use this money to expand the program currently in place and to not support this new initiative.

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Melvin Whitley, of 2614 Harvard Avenue, spoke in support of the New Horizon program asking Council to make a site visit. Mr. Whitley suggested that Council merge this program with the existing program already at New Horizon to serve a number of students.

Martina Dunford, Executive Director of New Horizon, provided background information on New Horizon, invited Council to see what's going on at this facility and noted their program needs to be expanded and they need funding.

Victoria Peterson spoke in support of funding for New Horizon.

Delores Eaton, of 126 Masondale Avenue, urged Council to not authorize funding for the Community Learning Center and to not enter into an agreement with Durham County. Also, she spoke in support of New Horizon receiving funding to expand their services.

Jackie Wagstaff, of 520 Walton Street, noted she expressed concern with negotiations going on between the County, City and a school board representative on behalf of the school board members who did not have any discussion on this matter. Also, she spoke in favor of New Horizon's program and suggested that this matter go back so that the new members of Council can vote on this item.

Mayor Bell briefed Council noting this item was discussed at a monthly meeting with the City Manager, County Manager, School Superintendent, Durham Public Schools Chair and Chair of County Commissioners. He spoke in favor of this item going back to all boards for input on whether New Horizon would be a better alternative.

Several members of Council spoke in support of this item being reconsidered.

Mayor Bell stated that he will contact the following individuals to advise them of the concerns raised regarding this issue: Superintendent, School Board Chair, County Manager and Chair of County Commissioners.

MOTION by Council Member Best seconded by Council Member Stith to rescind action taken by the City Council at its November 20, 2003 City Council Work Session was approved at 9:57 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

Note: This item was referred to the December 4, 2003 City Council Work Session.

[GENERAL BUSINESS AGENDA]

**SUBJECT: RUTH SHEPARD POOLE – DRAINAGE CONTRACT
AMENDMENTS - NARRON CONSTRUCTION - HOLMES
CONTRACTING, INC.**

Katie Kalb, Public Works Director, requested that contracts be amended to pay for Ms. Ruth Poole's project as well as 12 additional priority one drainage projects.

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MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Brown to authorize the City Manager to amend the existing contract with Narron Construction in the amount of \$210,000 for a total amount of \$474,353; and

To authorize the City Manager to amend the contract with Holmes Contracting, Inc. in the amount of \$143,000 for a total amount of \$321,902; and

To authorize the City Manager to modify the contract before execution provided that modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the contract was approved at 10:01 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

[SUPPLEMENTAL AGENDA]

SUBJECT: COMMUNITY LEARNING CENTER

To adopt a "Resolution by the City Council of the City of Durham Authorizing the Charge of \$27,960 to the Contingency Account of the General Fund."

Note: No action was taken on this item. This item will be discussed at the December 4, 2003 City Council Work Session.

MOTION by Council Member Best seconded by Mayor Pro Tempore Cole-McFadden to extend the meeting beyond 10:00 p.m. was approved at 10:02 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

[GENERAL BUSINESS AGENDA – PUBLIC HEARING]

**SUBJECT: MAJOR SPECIAL USE PERMIT (M02-06) – REVISED
CONDITIONS FOR ROGERS-HERR MIDDLE SCHOOL
ADDITIONS AND RENOVATIONS**

To hold a quasi-judicial public hearing to consider revised conditions for a Major Special Use Permit for Rogers-Herr Middle School Additions and Renovations in the R-10 district, and

To direct the Planning Director to prepare an Order for adoption, for 1) approval, 2) approval with conditions or 3) denial, or to continue the hearing to a specified later meeting. (A draft Order for approval with staff-recommended conditions will be available at the meeting)

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The Durham Public Schools has submitted a Major Special Use Permit request with revised conditions for a 48,238 square foot addition and renovations to the existing 74,909 square foot Rogers-Herr Middle School on a 23.26 acre site on Cornwallis Road east of Old Chapel Hill Road and west of Hope Valley Road.

City Clerk D. Ann Gray swore in the following individuals: Frank Duke, Michael Stock, Hugh Osteen and David Penny.

Mayor Bell explained the proceedings for a major special use permit hearing.

The Mayor asked Council to reveal any possible conflicts and to withdraw from this hearing if necessary. Also, Mayor Bell asked if any Council Member had been exposed to any evidence or information that may not come out at the hearing tonight.

Mayor Bell opened the public hearing.

Testimony from Staff

Michael Stock, of the City/County Planning Department, noted staff requests that the staff report and all attachments and exhibits be entered as a part of the permanent record. He noted in the matter of Case M02-06, Durham Public Schools is requesting a revision to the Major Special Use permit issued by City Council on April 7, 2003, to construct a 48,238 square foot addition along with field renovations to the Rogers-Herr Middle School. Mr. Stock noted this is not a re-opening of the entire Major Special use request, but simply a request by all parties to add a condition to the original permit issued. This condition reads: In the event the Durham Public Schools (DPS) seeks to add lighting to the athletic fields at Rogers-Herr Middle School, then upon application for the first permit or approval that is requested of the City in connection with such lighting, DPS shall show that it has given written notice of the proposed lighting request to the property owner at 2901 Monroe Avenue, Durham, North Carolina, so long as Christine Holloway Penny or any direct family member owns or resides at the residence. DPS shall present, with its application, an affidavit from a school official stating that a written letter describing the school's request was mailed to the residence on a date as specified in the affidavit, by certified mail, return receipt requested, along with documentation showing that the notice was received by the owner of the property or returned for some reason as undeliverable.

Mr. Stock noted as a reminder, staff had reviewed and determined compliance with the technical provisions listed in Section 13.2.4 of the Durham Zoning Ordinance for the original use permit. However, Council must make findings of fact under Section 13.2.3 of the Durham Zoning Ordinance that the proposed added condition is: 1) In harmony with the area and not substantially injurious to the value of properties in the general vicinity; 2) Will not adversely affect the health or safety of the public. Also, he noted staff will provide a recommendation to the Council at the conclusion of testimony for this case.

The Mayor asked Council if there were questions for staff. There were no questions.

Testimony from Applicant

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Hugh Osteen, representing Durham Public Schools, spoke in support of this item requesting that the condition be added to the permit to address the issue between the school and neighboring properties.

The Mayor asked if there were questions for the applicant. There were no questions.

David Penny, of 2901 Monroe Avenue, noted he supports the request made by Mr. Osteen, but is concerned since he has appealed the major special use permit granted by the City on April 7 and does not want to lose any legal standing by this agreement.

The Mayor asked the City Attorney to respond to the question raised by Mr. Penny.

City Attorney Blinder noted the staff report and agenda item identify what is the additional condition to the special use permit that was previously issued and the additional special condition deals with lighting. City Attorney Blinder asked Mr. Penny if he had an opportunity to see this item and if there were any objection to the additional special condition.

David Penny replied yes and noted he doesn't have any objection to the special condition. Also, he noted there are conditions that haven't been addressed between the school and him. Mr. Penny noted it was his understanding from his attorney that coming tonight was to address this one condition.

City Attorney Blinder noted that's all being discussed.

The Mayor asked if there were questions for Mr. Penny. There were no questions.

Staff Recommendation

Michael Stock, of the City/County Planning Department, noted based upon the technical requirements of the Durham Zoning Ordinance, staff recommends approval of the additional condition to the existing permit. He provided Council with a copy of order noting that it includes three findings of fact in which he did not read the second finding [In conformance with all special requirements applicable to the use and in conformance with the Supplementary Requirements Sections of the Ordinance] during his testimony which did not apply in this case, but is a part of the overall order.

Mayor Bell declared the public hearing closed.

City Attorney Blinder asked if there were any objections to the staff report being entered as part of the evidence. There were no objections.

MOTION by Council Member Clement seconded by Council Member Best to adopt an order granting, upon certain conditions, a Major Special Use Permit for Durham Public Schools Case M02-06 (Revised) was approved at 10:13 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

Ordinance #12892

December 1, 2003

**SUBJECT: PROPOSED REFUNDING OF OUTSTANDING PUBLIC
IMPROVEMENT BONDS, SERIES 1994 AND PUBLIC
IMPROVEMENT BONDS SERIES 1996**

To receive public comments upon an order authorizing not exceeding \$36,000,000 Refunding bonds of the City of Durham, North Carolina; and

To adopt the Order Authorizing \$36,000,000 Refunding Bonds.

Finance Director Ken Pennoyer made comments on this item noting that the 1996 bond savings were marginal and the last analysis puts the savings amount under the 3% threshold so the City will be dropping the 1996 refunding bonds out of the refunding sale and the reduction will be reflected in the resolution providing for the issuance of the refunding bonds at the December 15, 2003 City Council Meeting.

Mayor Bell opened the public hearing.

Steve Hopkins, of 920-B Wadesboro Street, asked if the money will be reallocated.

Finance Director Ken Pennoyer noted there is no new money and the City is basically receiving lower interest rates and refunding old bonds. Also, he made comments on the savings over the life of the bonds.

Steve Hopkins noted if money becomes available, this would be a good opportunity to make the salary for the Housing Inspections staff come out of the general fund rather than CDBG funds.

Mayor Bell declared the public hearing closed.

MOTION by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to receive public comments upon an order authorizing not exceeding \$36,000,000 Refunding bonds of the City of Durham, North Carolina; and

To adopt the Order Authorizing \$36,000,000 Refunding Bonds was approved at 10:16 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT: STREET CLOSING FOR HERNDON ROAD (SC03-03) –
RENAISSANCE FAYETTEVILLE ROAD, LLC – SOUTH OF I-40,
EAST OF STREETS OF SOUTHPOINT, BETWEEN
FAYETTEVILLE ROAD AND CROOKED CREEK**

City/County Planning Director Frank Duke briefed Council on the staff report.

Mayor Bell opened the public hearing. There being no one to speak in support of or against this item, the Mayor declared the public hearing closed.

December 1, 2003

MOTION by Council Member Clement seconded by Council Member Best to receive public comments; and

To adopt an ordinance permanently closing 0.0328 acres (1,430 square feet) within the public right-of-way of Herndon Road between Fayetteville Road and Crooked Creek was approved at 10:17 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

Ordinance #12893

[ITEM ADDED TO THE AGENDA]

SUBJECT: MUNICIPAL AGREEMENT WITH NCDOT FOR NC 147 BICYCLE PEDESTRIAN BRIDGE

MOTION by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to authorize the City Manager to enter into a Municipal Agreement with the N. C. Department of Transportation for the NC 147 Bicycle/Pedestrian bridge project (U-4445); and

To adopt a Resolution In Support of the Municipal Agreement Between the City of Durham and North Carolina Department of Transportation for the NC 147 Bicycle and Pedestrian Bridge (U-4445) was approved at 10:18 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

Resolution #9052

[GENERAL BUSINESS AGENDA]

SUBJECT: DURHAM AREA TRANSIT AUTHORITY - APPOINTMENT

To appoint a citizen to fill one (1) vacancy for an Alternate Member on the Durham Area Transit Authority with a term expiring on March 1, 2006.

Note: At the City Council Work Session on November 20, 2003 the applicants below received the following votes:

Joanne B. Kucharski - received 3 votes
Joshua M. Parker – received 1 vote
Jesus A. Sanchez – received 1 vote

By ballot, the City Council appointed Joanne B. Kucharski to the Durham Area Transit Authority with a term expiring on March 1, 2006 with four votes [Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown and Catotti].

December 1, 2003

Mayor Bell provided Council with a listing of Council Committees Appointed by the Mayor dated December 1, 2003.

SUBJECT: CITIZEN'S OBSERVER PATROL

To receive a presentation on the Citizen's Observer Patrol Pilot Program of District 2.

MOTION by Council Member Best seconded by Council Member Clement to refer this item to the December 4, 2003 City Council Work Session was approved at 10:20 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

There being no further business to come before the City Council, the meeting was adjourned at 10:20 p.m.

Linda E. Bratcher
Deputy City Clerk

D. Ann Gray, CMC
City Clerk